

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON AGRICULTURE

Esmeralda Soria, Chair

AB 1156 (Wicks) – As Amended March 20, 2025

AS PROPOSED TO BE AMENDED

SUBJECT: Solar-use easements: suspension of Williamson Act contracts: terms of easement: termination

SUMMARY: Makes a number of changes to law governing the conversion of a Williamson Act (WA) contract into a solar-use easement (SUE). Specifically, **this bill:**

- 1) Changes the definition of a SUE to:
 - a) Expand the land-use restriction in SUE's to include the storage of solar energy and appurtenant renewable or clean energy facilities.
 - b) Remove language allowing a SUE to exist in perpetuity.
 - c) Specify that, during the term of a SUE, any agricultural land conservation contract, including WA, binding all or a portion of the land under the SUE and meeting the criteria specified in this bill and existing law for a SUE would be suspended, as specified.
- 2) Alters the process by which the Department of Conservation (DOC) determines if a parcel that is under a WA contract is eligible for rescission and simultaneous placement into a SUE, as follows:
 - a) Requires DOC to consult with any applicable groundwater sustainability agency (GSA) or services.
 - b) Makes this process contingent on a request from a landowner, instead of a county or city.
 - c) Changes this process from a rescission of a WA contract to a suspension of the WA contract.
 - d) Adds to the list of criteria under which this process may occur to include land where there are or will be insufficient surface water or groundwater available, or insufficient surface water and groundwater available to support commercially viable irrigated agricultural use.
 - e) Removes a provision that prohibits a parcel or parcels from being located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, unless DOC makes a determination that circumstances exist that limit the use of the parcel for agricultural activities, as specified.
 - f) Requires the land to meet both of the additional following criteria:

- i) The parcel or parcels have an average grade of less than 10% and have been historically used primarily as irrigated cropland rather than having been historically used primarily as unirrigated grazing land.
 - ii) The parcel or parcels are not encumbered by a conservation easement or enrolled in a land conservation program, the primary purpose of which is the protection of resources other than agriculture, such as recreation, grazing, open space, or biological resources.
 - g) Specifies that, in order to assist DOC in making the determination of eligibility, as specified, city or county must require the landowner to provide specified information to DOC and makes the following changes to that information:
 - i) Changes references to “agricultural practices” to “commercially viable agricultural practices” and “agricultural productivity” to “commercial agricultural activity.”
 - ii) Changes an existing requirement to provide an analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production to specify “commercially viable” agricultural production, and to include insufficiency based on planned consolidation of water resources on more productive parcels.
 - h) Alters an existing exemption from the California Environmental Quality Act (CEQA) for this determination of eligibility by DOC by removing language limiting this exemption to a determination related to a project described in specified CEQA law that outlines projects that are exempt from CEQA, and instead exempts all DOC determinations of eligibility from CEQA.
 - i) Requires that the above CEQA exemption not to be interpreted to exempt photovoltaic solar facilities from CEQA.
 - i) Requires DOC to issue its determination within 120 days following submission of a completed application package. Any application not rejected within this 120-day period shall be deemed approved.
- 3) Allows a city or county to enter into a SUE upon request of a landowner and a determination of eligibility by DOC, as specified.
- 4) Removes language providing that the execution and acceptance of a deed or other instrument granting a SUE shall constitute a dedication to the public of the use of lands for solar photovoltaic use.
- 5) Changes provisions of law that allow a county or city to require a deed or other instrument granting a SUE to contain any restrictions, conditions, or covenants necessary or desirable to restrict the use of the land to photovoltaic solar facilities as follows:
- a) Adds “appurtenant” facilities to the allowable use of the land.

- b) Removes language allowing the restrictions, conditions, or covenants to include mitigation measures on the land and beyond the land that is subject to the SUE.
- c) Qualifies existing decommissioning requirements by stating that any decommissioning requirement shall not be in addition to other state or local requirements that ensure decommissioning of the facility, and that salvage value shall not be precluded from the calculation of the cost of decommissioning.
 - i) Provides for termination of the easement if the governmental authorization allowing the facilities to be constructed expires without being exercised and the project is not built.
 - ii) Provides for necessary amendments by the parties, including but not limited to amendments to adjust the boundaries of the easement if the facilities constructed are less extensive than originally anticipated, provided that the amendments are consistent with the provisions of this chapter.
- 6) Removes language requiring the restrictions, conditions, or covenants in a deed or other instrument granting a SUE to include a requirement for the landowner to post a performance bond or other securities to fund the restoration of the land that is subject to the SUE to the conditions that existed before the approval or acceptance of the SUE by the time the SUE is extinguished.
- 7) Specifies that a city or county shall not approve any land use on land covered by a SUE that is inconsistent with the SUE, and no building permit or construction notice to proceed may be issued for any structure that would violate the SUE. Existing law requires the county or city to seek, by appropriate proceedings, an injunction against any threatened construction or other development or activity on the land that would violate the SUE and seek a mandatory injunction requiring the removal of any structure erected in violation of the SUE. This bill does not extend this requirement to a city or county.
- 8) Removes language that allows a person or entity to seek an injunction if the county or city fails to seek an injunction, above, or if the county or city should construct any structure or development or conduct or permit any activity in violation of the SUE, and language allowing a court to award to a plaintiff who prevails in such an action his or her cost of litigation, including reasonable attorney's fees.
- 9) Defines the following:
 - a) Community benefits agreement means an agreement that provides specific benefits to the local community, including, but not limited to, all of the following:
 - i) Job creation and training programs for local residents.
 - ii) Use of local businesses and vendors.
 - iii) Financial contributions to community development projects and programs.
 - b) Local community means the city or county in which the photovoltaic solar facility is located, including any other local governmental agencies or community-based organizations located within that city or county

- 10) Allows a city or county to require, as a condition to entering into a solar-use easement, that the photovoltaic solar facility enter into a community benefits agreement with one or more local communities.
- 11) Requires termination of a SUE to be by mutual consent.
 - a) Allows a county or city, at the end of the photovoltaic solar facility's operating life, serve notice of nonrenewal upon the other party at least 90 days in advance of the annual renewal date of the solar-use easement. Unless written notice is served at least 90 days in advance of the renewal date, the solar-use easement shall be considered valid and, as the case may be, renewed, as specified.
- 12) Removes the authority of a county or city to not renew a SUE.
- 13) Removes language that requires an existing SUE to remain in effect for the balance of the period remaining since the original execution or the last renewal of the SUE, if the county, city, or the landowner serves notice of intent in any year not to renew the SUE.
- 14) Specifies that, when a SUE is extinguished, the suspension of the WA contract shall terminate and once again be in full force and effect.
- 15) Repeals provisions of law that allow for, and govern, the termination of a SUE.
- 16) Repeals provisions of law that allow for, and govern, the rescission of a WA contract for simultaneous placement of the land into a SUE.
- 17) Requires any agricultural land conservation contract effecting a parcel or parcels of land that, upon review, are determined by DOC to be eligible to be placed in a SUE and for which a SUE has been entered into by a city or county to be suspended for the term of the SUE. This suspension shall occur notwithstanding the prior serving of a notice of nonrenewal. Provides that nothing in this provision limits the ability of the parties to a contract to seek nonrenewal, or petition for cancellation or termination of a contract pursuant to the WA. Provides that this provision is provided in addition to, not in replacement of, other methods for contract suspension, termination, WA compliance, or a county or city finding that a solar facility is a compatible use pursuant to the WA.
- 18) Provides that CEQA does not apply to the entry into or recordation of a SUE pursuant to the provisions of this bill and existing law governing the conversion of a WA contract into a SUE.

EXISTING LAW:

- 1) Creates the California Land Conservation Act of 1965, also known as the Williamson Act, which authorizes cities and counties to enter into agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 10 years in exchange for lower assessed valuations for property tax purposes. The Division of Land Resource Protection in DOC administers the Act. (*Government Code (GOV) 51200, et seq.*)

- 2) Creates Farmland Security Zones and authorizes cities and counties to allow agricultural land preservation contracts with landowners who agree to restrict the use of their land for a minimum of 20 years in exchange for lower-assessed valuations for property tax purposes. The lowered assessed value, under Farmland Security Zones, is greater than under the Williamson Act. (*GOV 51296-51297.4*)
- 3) Provides three options for ending a Williamson Act contract:
 - a) Either the landowner or local officials give "notice of nonrenewal," which stops the automatic annual renewals and allows the contract to run down over the next 10 years. (*GOV 51245*)
 - b) Local officials can cancel a contract at the request of the landowner. To do so, local officials must make findings that cancellation is in the public interest and that cancellation is consistent with the purposes of the Williamson Act. The owner must pay a cancellation fee based on the "cancellation value" of the land. (*GOV 51282*)
 - c) Local officials cancel a Williamson Act contract, but the landowner simultaneously puts an agricultural conservation easement or open space easement on other land of equal or greater value. This action is called rescission. (*GOV 51256*)
- 4) Authorizes a city or county and a landowner to simultaneously rescind a Williamson Act contract on marginally productive or physically impaired lands and enter into a solar-use easement that restricts the use of land to photovoltaic solar facilities, as specified. (*GOV 51191-51192.2*)
- 5) Defines a solar-use easement as a legal agreement, held by a city or county, which restricts land use to solar photovoltaic energy generation and related incidental uses, such as open space or agriculture. The easement may be permanent, fixed-term, or self-renewing, and applies only to parcels deemed eligible by the DOC. It prohibits any commercial, industrial, or residential uses and requires a recorded covenant that limits future development to uses consistent with solar energy production. (*GOV 51190*)
- 6) Requires that applicants for an agricultural conservation easement or fee acquisition grant meet all of the following eligibility criteria: (*Public Resources Code 10251*)
 - a) The parcel proposed for conservation is expected to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.
 - b) The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment shall be reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of the county or city where the acquisition is proposed.
 - c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

- 7) Establishes the Sustainable Groundwater Management Act (SGMA) as a statewide framework to protect groundwater resources by requiring local agencies to form groundwater sustainability agencies (GSAs) for the designated high and medium priority water basins. GSAs must develop and implement groundwater sustainability plans to avoid undesirable results and mitigate water overdraft within 20 years. (*Water Code 10720-10738*)
- 8) Requires retail sellers and publicly owned utilities to increase purchases of renewable energy such that at least 60% of retail sales are procured from eligible renewable energy resources by December 31, 2030. This is known as the Renewable Portfolio Standard (RPS). (*Public Utilities Code (PUC) 399.11 et seq.*)
- 9) Establishes the policy that all of the state's retail electricity be supplied with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, and 100% of electricity procured to serve all state agencies by December 31, 2035, for a total of 100% clean energy. Requires the California Public Utilities Commission (CPUC), in consultation with the California Energy Commission (CEC), California Air Resources Board (CARB), and all California balancing authorities, to issue a joint report to the Legislature by January 1, 2021, reviewing and evaluating the 100% clean energy policy. (*PUC 454.53*)

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

California's Clean Energy Goals. AB 1279 (Muratsuchi), Chapter 337, Statutes of 2022, codified into law the state's goals to achieve net zero greenhouse gas (GHG) emissions and a reduction of statewide anthropogenic GHGs to at least 85% below 1990 levels by 2045. This parallels the state's goals for 100% new zero-emission vehicle sales by 2035 and 100% clean electricity by 2045, as established by Governor Newsom's Executive Order N-79-20 and SB 100 (De León), Chapter 312, Statutes of 2018, respectively. Achieving these goals will require a significant buildout of clean energy infrastructure.

In a study from October 2022, the Public Policy Institute of California (PPIC) examined specific land-use issues around solar energy development in the San Joaquin Valley for SGMA-impacted land removed from agricultural production. The PPIC report concluded that utility-scale solar development, already an attractive option for landowners owning property with or without water rights, could offer an opportunity to keep lands that exit irrigated production economically productive. The PPIC report noted integration between energy system planning and local land use decisions was needed. It also identified the WA as a barrier to solar development, given the complexities involved with the current cancellation process.

Williamson Act Background. WA is a program administered by the DOC to conserve agricultural and open space land. WA allows private property owners to sign voluntary contracts with counties and cities that restrict their land to agriculture, open space, and compatible uses for the next 10 years. WA contracts automatically renew each year, so that the term is always 10 years in the future. In return for these voluntary contracts, county assessors lower the value of WA contracted lands to reflect the value of their use as agriculture, or open space instead of their market value under Proposition 13. In 1998, the Legislature created an option of establishing a Farmland Security Zone (FSZ), which offers landowners a greater property tax reduction for a minimum 20-year contract. The Revenue and Taxation Code sets out valuation procedures for

land under WA and FSZ contracts, as well as for other lands whose use is enforceably restricted in various ways, including scenic restrictions, open space easements, restrictions for timber cultivation, and wildlife habitat contracts.

A landowner who wants to develop land restricted by a WA contract has three options: nonrenewal, cancellation, and rescission. The normal way to end a WA contract is for either the landowner or local officials to give "notice of nonrenewal," which stops the automatic annual renewals and allows the contract to run down over the next 10 years (20 years for Farmland Security Zones).

Alternatively, local officials can cancel a contract at the request of the landowner. To do so, local officials must make findings that cancellation is in the public interest and that cancellation is consistent with the purposes of the WA. In addition, the landowner must pay a cancellation fee that is equal to 12.5% of the cancellation valuation of the property (25% in the case of FSZs). Typically, the county assessor determines the cancellation valuation, which is set at the property's unrestricted market value. However, a landowner and DOC can separately agree on a cancellation valuation for the land, which takes the place of the value identified by the county assessor. Local officials may approve or deny a cancellation once the cancellation value is determined.

Rescission occurs when the county supervisors cancel a WA contract, but the landowner simultaneously puts an agricultural conservation easement or open space easement on other land of equal or greater value. In addition, state law allows a property owner and a city or county to mutually agree to rescind the WA or FSZ contract on marginally productive or physically impaired land to enter a solar-use easement contract, SB 618 (Wolk), Chapter 596, Statutes of 2011 (SB 618). Such a rescission requires a payment of a rescission fee of 10% of the fair market value of the land, half of which goes to the county and half of which goes to the state General Fund. The DOC, in consultation with the Department of Food and Agriculture (CDFA), must review and approve all solar-use easements.

Historically, the state made subvention payments to counties in order to make up for a portion of the resulting losses in local property tax revenue from WA and FSZ contracts, and other enforceable open space restriction programs. Specifically, state law requires the Secretary of Natural Resources to direct the Controller to pay counties, out of continuously appropriated funds, at the following annual rates for enforceably restricted land:

- Five dollars per acre for prime agricultural land that is subject to open space easement, WA or FSZ contract, or timber production easement.
- One dollar per acre for other land devoted to open-space uses of statewide significance.
- Eight dollars per acre for land under a FSZ contract and is within three miles of the boundaries of the sphere of influence of an incorporated city.

In total, about 15.4 million acres of land in 52 counties are protected under these types of enforceable restrictions, mostly under WA contracts. Subvention payments totaled about \$35 million to \$40 million each year from 1994 to 2008. However, the state stopped making subvention payments in Fiscal Year 2009-10 in response to budgetary pressures. In the intervening years, only one county, Imperial, has exited the WA program.

Solar Use Easements. SB 618 authorized an alternative to the then-existing avenues for exiting a WA or FSZ contract, in response to the state’s renewable energy goals and a desire for alternative uses for marginally productive or physically impaired agricultural land. Under the provisions of SB 618, a property owner and a county or city may mutually agree to rescind the WA or FSZ contract on lands of limited agricultural value and enter into a SUE that restricts the use of land to photovoltaic solar facilities.

DOC, in consultation with the CDFA, determines if a parcel is eligible for rescission and placement into a SUE, based on specified criteria. Under SB 618, a parcel is eligible for this process if it is not located on lands designated as prime farmland, unique farmland, or farmland of statewide importance. The land must also consist predominantly of soils with significantly reduced agricultural productivity, or have severely adverse soil conditions that are detrimental to continued agricultural activities and production.

The SB 618 process requires the landowner to pay a rescission fee, which is 6.25% of the fair market value of the land if it was under a WA contract and 12.5% if it was in a FSZ. These rescission fees are half that of WA contract cancellation fees.

Sustainable Groundwater Management Act (SGMA). Groundwater is water found beneath the land surface in pores and fractures in materials such as rock, gravel, or sand. Underground areas where groundwater flows naturally out of rock materials or where groundwater can be removed by pumping are referred to as aquifers. According to the Department of Water Resources (DWR), groundwater provides nearly 40% of California’s water supply in an average year and 60% in drought years. For much of California’s history, there was no statewide mandate for the management of groundwater. This led to significant over-pumping (or “overdraft”) of groundwater in many regions of the state that resulted in land subsidence (or sinking) that compromised infrastructure, dewatered rivers and streams, led to seawater intrusion in coastal areas, and dried out domestic and agricultural groundwater wells, among other adverse impacts.

Agricultural Lands and SGMA. Compliance with SGMA necessitates that some agricultural land come out of production to achieve groundwater sustainability. In a 2023 policy brief entitled “*The Future of Agriculture in the San Joaquin Valley*,” the PPIC estimated that by 2040, the combined impacts of SGMA, climate change, and environmental regulations could cause a 20 percent reduction in water availability for valley agriculture, or around 3.2 million acre feet. Water constraints will lead to a reduction in irrigated lands, and in overdrafted basins, areas with less access to surface supplies will face a much higher risk of fallowing. In the worst-case scenario, without developing new supplies or engaging in water trading activities, the transition to sustainability under climate change and increased environmental flows will require the fallowing of nearly 900,000 acres with respect to current conditions. In some areas, more than 50 percent of lands may need to be fallowed.

According to the author, this bill updates California’s SUE statute to permit lands with water constraints to be eligible for an easement, while modernizing eligibility criteria and easement terms. The legislation maintains local discretion, incorporating Groundwater Sustainability Agencies in any review of water limitations, updates the compatibility of solar-use easements with existing permitting processes and provides that land under easement be assessed at its full value. Vitality, the bill provides a path for lands to enter back into a WA contract at the conclusion of the term of an easement. This bill responsibly updates California’s Solar-Use Easement law to consider water constrained farmland, providing a unique prospect to accomplish

myriad state policy goals while providing farmers with an additional, voluntary economic opportunity.

Supporters state Senate Bill 100 (Chapter 312, Statutes of 2018) and Senate Bill 1020 (Chapter 361, Statutes of 2022) established and reaffirmed California's landmark clean energy policy, requiring that renewable and zero-carbon energy resources supply 100% of the state's electric retail sales by 2045. To meet this goal, California must add at least 127 GW of new zero-emitting resources to the grid by 2045, more than 48% of which is solar. Constructing this scale of clean energy infrastructure within such a short timeframe requires leveraging every available tool to advance projects efficiently.

One of the primary challenges to achieving this goal is land availability. Projects must be located relatively close to transmission infrastructure, have largely contiguous lands, and avoid sensitive habitat areas, factors that, in addition to federal lands rules, exclude the majority of California's desert landscape. The California Energy Commission's 2023 land use screens report highlights that the lowest-impact approach to our clean energy transition is found in repurposing agricultural lands losing water access for at least some of the state's needed solar energy. This will not only minimize biodiversity impacts but also supports the economic stability of these communities.

This bill aims to update the SUE law, which was originally designed in 2011 to facilitate solar projects on WA contracted lands. Few clean energy projects have been developed under this law due to several reasons, including onerous requirements on local governments to develop costly ordinances and restrictions related to soil degradation as opposed to other impairments, such as water constraints. SGMA related requirements have real-world impacts on WA contracted lands and on local farming communities, and taking limitations to water supply into consideration with a SUE is key when determining land eligibility.

This bill proposes to update the SUE law by allowing lands with water constraints to be eligible for an easement and modernizes the eligibility criteria and easement terms. This update helps to align state policy goals and provides farmers with new economic opportunities for their land while advancing the state's clean energy and water sustainability goals.

Opponents state this bill guts the payment of a WA contract cancellation fee and instead expands its reach of undermining land preservation by allowing conservation easements for agricultural lands to be cancelled. Including agricultural lands that are protected in easements to the lands that would be subject to this bill attacks not just the integrity of the WA but erodes the state's goals around 30x30, the Strategic Agricultural Lands Conservation Program, the Multibenefit Land Repurposing Program, and the California Farmland Conservation Program. This bill asks the state to ignore the role that agricultural lands play in reaching greenhouse gas emissions reductions – recognized by the CARB in its December 2024 Scoping Plan – and to convert those lands into industrial uses, which will increase up to 7 times the amount of GHG emissions from those lands.

The bill would allow solar developers to cherry pick for industrial development prime agricultural lands and lands that have been identified by USDA, NRCS, and acknowledged by the state through its Farmland Mapping and Monitoring Program as Lands of Statewide Importance. These lands have been designated as the greatest food producing soils on the planet. This is why the current SUE requires strict scientific guardrails before converting any WA lands

to solar but specifically prohibits that from occurring on lands denoted as prime or as Lands of Statewide Importance.

This bill creates a risk that the state will undermine its ability to meet climate objectives by converting carbon capturing agricultural lands at scale with GHG emitting industrial projects for short term gains in meeting electrification targets, And it may cause unintended consequences related to food and therefore national security at a time when access to fair trade is uncertain at best. This bill creates a slippery slope to highly undesirable outcomes.

Policy Considerations. The Committee may wish to consider the following:

- 1) AB 2528 (Arambula) of 2024 (AB 2528) was amended to decrease cancellation fees, rather than eliminate them altogether. The bill proposed to set fees at 6.25% of the fair market value of the property, effectively halving the fee that would otherwise apply pursuant to the WA. The Committee may wish to consider if a similar arrangement should be incorporated into this bill.
- 2) The Assembly Select Committee on Permitting Reform reported this year that stakeholders in the solar industry identified the southern San Joaquin Valley as especially promising for converting WA contracts to solar use, because of its ample sun and proximity to transmission corridors. AB 2528 was eventually narrowed to apply only to the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The Committee may wish to consider if a similar compromise should be struck with this bill.
- 3) AB 1156 makes all types of Ag land available for a SUE. This could undermine long-term conservation goals, specifically on prime agriculture land. “Prime Ag land” is defined as farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. The current SUE law excludes prime farmland from solar easements. The Committee may wish to consider if there should be any limits on removing prime farmland from production for an SUE.

REGISTERED SUPPORT / OPPOSITION:

Support

Aes Corporation
 Almond Alliance
 American Clean Power Association
 American Clean Power- California
 Arevon
 California State Association of Electrical Workers
 California State Council of Laborers
 Candela Renewables
 Clearway Energy Group LLC
 Coalition of California Utility Employees
 David Britz
 Edp Renewables North America LLC
 Edpr Na, LLC

Forebay Farms
 Independent Energy Producers Association
 Intersect Power
 Invenergy, LLC
 Large-scale Solar Association
 Leeward Renewable Energy
 Lisa Seasholtz Elgorriaga
 Longroad Energy Management, LLC
 Mattera Farming Company
 New Leaf Energy
 Renton &ferry Farms
 Rwe
 Singh Farms

Solar Energy Industries Association

Terra-gen Development Company, LLC

Support If Amended

Western Growers Association

Opposition

American Farmland Trust

California Farm Bureau Federation

County of Kern

Rural County Representatives of California (RCRC)

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